

CITY OF SAN JOSÉ, CALIFORNIA  
Department of Planning, Building and Code Enforcement  
801 North First Street, Room 400  
San José, California 95110-1795

## STAFF REPORT

Hearing Date/Agenda Number

PC: 09-24-03

Item #: 4.b.

File Number

C03-072

Application Type

Executive Director-Initiated Rezoning

Council District

3

SNI Area

Market Almaden

Planning Area

Central

Assessor's Parcel Number(s)

Various (Majority of Downtown Core)

### PROJECT DESCRIPTION

Completed by: Akoni Danielsen

Location: Area generally bounded by Julian Street (north), 4<sup>th</sup> Street (east), Interstate 280 (south) and RT87 (west)

Gross Acreage: Approximately 389

Net Acreage: 389

Net Density: N/A

Existing Zoning: primarily CG, also CN, LI, HI, R-2, R-M

Existing Use: Downtown San Jose with mixed densities

Proposed Zoning: DC Commercial and DCNT-1  
Neighborhood Transition

Proposed Use: No change

### GENERAL PLAN

Completed by: AD

Land Use/Transportation Diagram Designation

Core Area Commercial, Public Quasi-Public, Public Park and Open Space and  
General Commercial

Project Conformance:

☒ Yes ☐ No

☒ See Analysis and Recommendations

### SURROUNDING LAND USES AND ZONING

Completed by: AD

North: vacant and high density residential

Planned Development and LI Light Industrial

East: residential (high and low density) and  
commercial

R-M Multiple Residence and CG Commercial General

South: Residential and commercial

R-M Multiple Residence and CN Commercial Neighborhood

West: residential, commercial and industrial

LI Light Industrial and CN Commercial Neighborhood

### ENVIRONMENTAL STATUS

Completed by: AD

☒ Environmental Impact Report found complete (GP 2020 EIR certified  
8/16/1994)

☐ Exempt

☐ Negative Declaration circulated on

☐ Environmental Review Incomplete

☐ Negative Declaration adopted on

### FILE HISTORY

Completed by: AD

Annexation Title: Original City

Date: March 27, 1850

### PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☒ Approval

Date:

Approved by:

☐ Approval with Conditions

☐ Denial

☐ Uphold Director's Decision

☐ Action

☒ Recommendation

### APPLICANT/OWNER

### ARCHITECT

San Jose Redevelopment Agency

N/A

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**PUBLIC AGENCY COMMENTS RECEIVED**

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Completed by: AD

**Department of Public Works**

None received.

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**Other Departments and Agencies**

See memo from Airport Department.

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**GENERAL CORRESPONDENCE**

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None received.

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**ANALYSIS AND RECOMMENDATIONS**

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**BACKGROUND**

Under the provisions of Title 20 of the Municipal Code, the Executive Director of the Redevelopment Agency has initiated a rezoning of approximately 389 acres of the Downtown from CG Commercial, R-M Residence, R-2 Residence, LI Light Industrial and HI Heavy Industrial to DC Downtown Commercial and DCNT-1 Downtown Commercial Neighborhood Transition to allow intensive urban uses in the Downtown. The proposed rezoning covers two distinct areas (see attached Exhibit A). The DC is planned for the majority of Downtown and is designed to allow the most intensive type of uses in the city including high-rise residential and commercial development, mixed-use developments and large public projects. The DCNT-1 zone serves as a buffer between the Market-Almaden neighborhood and the rest of Downtown, and is a less intensive zone that implements the Council approved Market-Almaden Neighborhood SNI Plan.

The DC and DCNT-1 zoning districts are draft at this point, and are the subject of their own public hearings before Planning Commission on September 24 and City Council on October 21. These two proposed zoning districts would be adopted by the City Council by separate action, an action that would have to precede any action taken on the proposed rezoning of property described in this staff report. In short, these two districts can not be applied to property until the City Council creates them.

**ENVIRONMENTAL REVIEW**

The environmental impacts of this project were addressed by a Final EIR entitled, "San José 2020 General Plan EIR," which was certified on August 16, 1994, by the City of San José City Council Resolution Number: 65459.

**GENERAL PLAN CONFORMANCE**

The proposed rezoning is consistent with and implements the San Jose 2020 General Plan, and provides greater conformance than the current zoning districts applied to properties Downtown. Specifically, the rezoning facilitates development that will implement the General Plan major strategy of Downtown Revitalization, which recognizes Downtown is vital to the City's long term economic and social well-being. The proposed districts and regulations are designed to promote the City's Smart Growth policies by facilitating high-density, mixed-use developments that support a vibrant 24-hour community. Additionally, the regulations have been structured to encourage a pedestrian friendly environment and the use of mass transit.

The Land Use/Transportation Diagram designation for the majority of the Downtown is Core Area (see attached Exhibit B), and the proposed DC Commercial zoning district has been designed to implement the Core Area land use designation. The remaining portion of the Downtown proposed for rezoning to DC Commercial is designated Public Quasi-Public (91.19 ac), Public Park and Open Space (15.06 ac), General Commercial (9.28 ac) and Residential Support for the Core (2.49 ac) (see attached Exhibit C). Application of the proposed DC Commercial zoning district will implement each of these several land use designations in that the DC district allows public, quasi-public, public park, open space, general commercial, mixed-use, and residential uses.

The portion of the Downtown proposed for rezoning to DCNT-1 district is designated Core Area and Medium Low Density Residential (see attached Exhibit D) and the proposed DCNT-1 district is designed to implement these designations consistent with the Market Almaden Neighborhood SNI Plan.

## **ANALYSIS**

The primary issues are 1) the application of the two new zoning districts to properties Downtown, 2) the exclusion of select property Downtown from the zoning program, and 3) legal non-conforming issues following the rezoning of property to the two new districts.

### **Applying DC and DCNT-1 Districts to Properties**

The proposed rezoning program consists of two distinct actions: rezoning properties to DC Downtown Commercial district and DCNT-1 Downtown Commercial-Neighborhood Transition district. For clarity of analysis, each is discussed separately.

**DC Downtown Commercial.** This new district would be applied to the vast majority of the Downtown. The large majority of property (approximately 248 ac) proposed for application of DC Downtown Commercial is currently zoned CG Commercial General (see attached Exhibit E). The remaining property (see attached Exhibit F) is currently zoned CN Neighborhood Commercial (0.39 ac), R-2 Residence (4.69 ac), R-M Residence (3.17 ac), LI Light Industrial (8.95 ac), and HI Heavy Industrial (2.75 ac). These current commercial and residential zoning districts do not allow the intense, mixed-use development desired Downtown. The industrial zoning districts do not conform to the aforementioned General Plan land use designations Downtown. In general, the current zoning districts present Downtown frustrate implementation of the General Plan major strategy of Downtown Revitalization.

**DCNT-1 Downtown Commercial-Neighborhood Transition 1.** This new district is intended to buffer the Market Almaden Neighborhood, located at the southern edge of Downtown, bounded by Almaden Boulevard, Balbach Street, Market Street, and Highway 280. The DCNT-1 district is an implementation of the Market-Almaden Neighborhood Plan approved by the City Council in March 18, 2003. That Plan specified setbacks, general uses and height limits to protect the low-density residential uses that are surrounded by this zoning. The DCNT-1 district would be applied to two separate areas on either side of the Market Almaden Neighborhood. The westerly area, between Almaden Boulevard and Almaden Avenue, is currently zoned CG General Commercial and R-M Residence. The easterly area, located on the west side of Market Street between Balbach Street and Highway 280, is currently zoned CG Commercial and R-M Residence (see attached Exhibit G).

The existing CG district allows commercial uses (such as entertainment establishments, theaters, automobile uses and parking lots) that could be incompatible with the Market Almaden Neighborhood. The R-M district does not allow the types of new mixed-use developments anticipated in these two neighborhood transition areas. The proposed DCNT-1 district would preclude incompatible commercial uses, while allowing appropriate mixed-use development, and has been designed to implement the development goals of the Market Almaden Neighborhood SNI Plan.

### **Downtown Zoning Exclusions**

Not all property Downtown is proposed for rezoning at this time. All existing Downtown Planned Development Zoning Districts are proposed to remain (see attached Exhibit H). The majority of these zonings are for projects that were constructed in the last decade, and the development regulations and allowed uses are still appropriate to these properties and do not need to be rezoned.

In addition to existing PD zonings, three distinct areas Downtown have been excluded from this rezoning program, as shown on Exhibit A. These areas were excluded for several reasons. The Market-Almaden Neighborhood is planned and designated to remain a single family neighborhood on the General Plan, and is currently zoned R-1-8 Residence, which conforms to the General Plan, and so there is no need to rezone that portion of Downtown. The other two excluded areas are at the northeast and southeast corner of Downtown. These areas are primarily residential and the Agency is considering proposing and applying a new zoning district at some point in the future, distinct from DCNT-1, to support future residential development in these areas.

### **Legal Non-conforming Issues**

Upon application of the proposed new DC and DC-NT zoning districts to properties as shown on the attached exhibits, there may arise situations where existing structures and/or land uses may not conform to the proposed new districts' allowed uses, development regulations and performance standards. Legally existing development and land uses that do not conform to the new zoning designations will become legal non-conforming upon rezoning, enjoying rights and subject to regulation as described in Chapter 20.150 of the Zoning Ordinance. Those structures and land uses that are not legal at time of rezoning would remain non-conforming and subject to code enforcement action by the City.

### **PUBLIC OUTREACH**

In 2003, presentations and meetings have been held with the Downtown Association, the Chamber of Commerce, and various neighborhood groups including the Market-Almaden and Spartan Keyes Neighborhood Advisory Committees (NACs).

For the current rezoning approximately 6000 notices have been mailed to all property owners and tenants within 1000 feet of the downtown area. The notice was also published in the San Jose Mercury News. Staff has been available to discuss the proposal with members of the public.

### **RECOMMENDATION**

Planning staff recommends approval of the proposed zoning for the following reasons:

1. The proposed rezoning is in conformance with the General Plan major strategy of Downtown Revitalization, which recognizes Downtown is vital to the City's long term economic and social well-being.
2. Application of the proposed districts and regulations will promote the City's Smart Growth policies by facilitating high-density, mixed-use developments that support a vibrant 24-hour community.
3. The proposed rezoning will facilitate implementation of the Market-Almaden Neighborhood Plan approved by the City Council in March 18, 2003.